

COMMENT LETTER

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Lower Basin depletion right when utilizing the CRSS depletion schedule used in the DEIS during the interim period.

Figure 3a shows a relatively large amount (nearly 80 KAF annually) of TAP water going to realize surplus deliveries (TAP condition shown in Figure 1c) under the California, Six State, and Shortage Protection Alternatives and a modest amount (17 KAF annually under the No Action Alternative during the interim period. Small amounts of TAP water also go to normal (TAP condition shown in Figure 1e) and extreme shortage relief (TAP condition shown in Figure 1f).

During the post-interim period over 40 KAF annually of TAP water goes to extreme shortage relief and a near equal amount to meet normal deliveries under all surplus alternatives. With exception of the Flood Control Alternative there is little difference in TAP releases among the alternatives during the post-interim period. Note that for the Flood Control Alternative there is never any surplus TAP release (TAP condition shown in Figure 1c) since under this alternative surplus is coincidental with the condition shown in Figure 1a when the TAP is reset.

Figure 3c shows the 60-year average TAP releases. From this figure it is apparent that there is little difference among the liberal criteria (California, Six State, and Shortage Protection Alternatives) with respect to TAP releases and hence to the implicit reliance on undeveloped Lower Basin Tribal waters. The No Action and Flood Control Alternatives have moderately lower 60-year average TAP releases than the three liberal interim criteria.

IV. DISINCENTIVE TO INDIAN WATER DEVELOPMENT

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As the DEIS acknowledges but does not analyze, *see* DEIS at 3.14-2, there is a disincentive to Indian water development due to the implicit reliance on undeveloped Tribal water assets. As demonstrated by the accounting above, this implicit reliance varies depending on the surplus criterion. The more liberal the surplus criterion, the greater is the implicit reliance on undeveloped water both in the Upper and Lower Basins, and hence the greater is the disincentive to Indian water development. Since the Lower Basin is over-allocated, the development of Tribal water would reduce the delivery of water to others in the Lower Basin, requiring either a reduction in use or the purchase of water to replace that amount of Tribal water that others have previously used.

By assigning per acre-foot dollar values to the Lower Basin non-Indian use of undeveloped Indian waters, we can estimate the economic disincentive to Tribal water development. Using the negotiated cost per acre-foot transferred under the Imperial Irrigation District/San Diego County Water Authority conservation agreement as a current guideline, transferred water is valued at approximately \$290/af. Recognizing that the normal and shortage relief releases from TAP would have even greater value, normal

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22: The Department does not believe that the proposed action will serve as a disincentive to Indian water development. See response to Comment 53-6.

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TAP releases are valued at \$435/af, and shortage relief TAP releases at \$580/af. Table 1 gives the results of assigning these values to the implicitly used Upper and Lower Basin undeveloped Tribal waters. The amounts shown represent the 60-year annual average value of the Tribal water that will be used by the Lower Basin non-Indians under the various alternatives. It may be considered a disincentive to the development of Tribal water as those using this water would have to replace it at the approximate values shown, thereby providing this level of disincentive to others to allow for development of the water on Tribal lands. From Table 1 the No Action Alternative results in the lowest economic disincentive to Tribal water development.

Table 1. Potential Economic Disincentive to Tribal Water Development (\$million/year).

	California	Six State	Shortage Protection	No Action	Flood Control
Upper Basin	\$ 14.24	\$ 13.14	\$ 14.34	\$ 5.50	\$ 12.01
Lower Basin	38.24	37.67	38.21	34.26	31.70
Total	\$ 52.48	\$ 50.81	\$ 52.54	\$ 39.76	\$ 43.71

If the development schedule submitted by the Partnership is utilized in the final EIS as promised in the DEIS, and in a revised DEIS, *see* discussion *supra*, then the water supply available to meet the excess lower basin demand is diminished. When the new model runs are completed for the revised DEIS, the disincentive should be recomputed as the difference in delivery of Lower Basin Tribal water to Lower Basin non-Tribal uses for the two alternatives (full build-out as shown and the schedule shown in the DEIS). While the revised DEIS should recognize the full build out scheduled, it should also acknowledge that the loss of this water to the non-Tribal Lower Basin users has an economic impact and that impact becomes a disincentive for others to allow the Tribes to accomplish their desired build-out.

CONCLUSION

As presently drafted, the DEIS fails to fully and adequately account for the Partnership Tribes’ water rights and the impact Reclamation admits the interim surplus criteria will have upon those rights. These failures must be corrected to fulfill the requirements of NEPA and Interior’s and Reclamation’s own policies regarding ITAs. This additional analysis, together with a complete analysis of the Seven States proposal, will require that Reclamation circulate a revised DEIS that fully accounts for impacts to ITAs and proposes mitigation for those impacts based upon consultation with the Partnership. Without the requisite analysis in a revised DEIS, there is no basis upon which the Partnership – or the Secretary – may support a preferred alternative.

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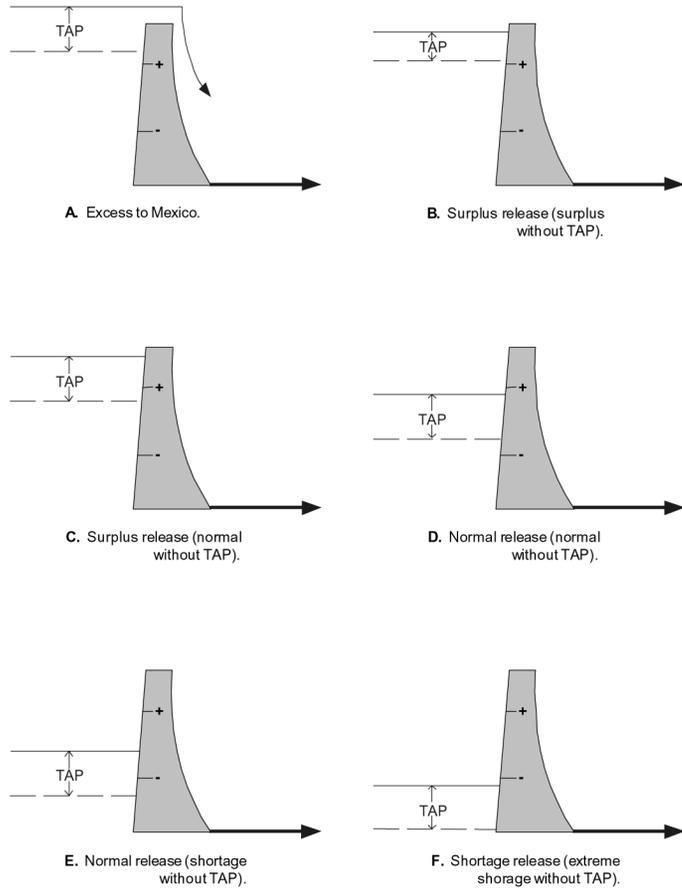
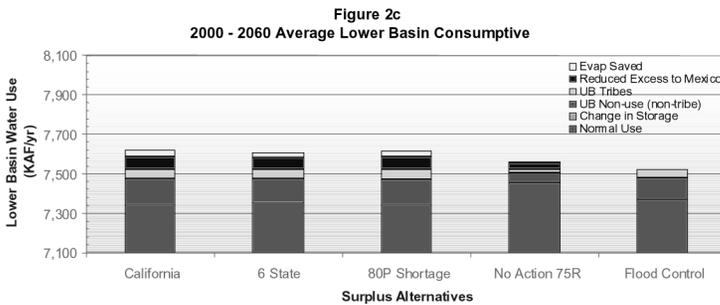
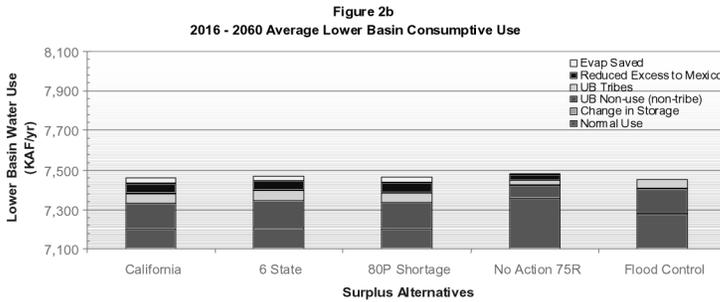
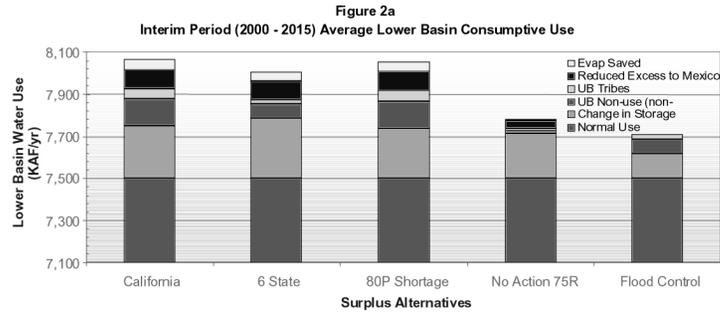


Figure 1. Different combinations of Tribal Accounting Pool (TAP) and contents of Lake Mead relative to surplus (+) and shortage (-) trigger elevations.

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